

IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SIX

PRESENT
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
-
WRIT PETITION No.10371 of 1997

Between:

Veeranki China Venkatesu.

.....
PETITIONER

AND

**1.District Munsif, Chintalapudi,
West Godavari District, and 2 others.**

.....**RESPONDENTS**

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The Hon'ble Sri Justice Nooty Ramamohana Rao

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Writ Petition No.10371 of 1997

Order:

This Writ Petition has been filed seeking a writ of

mandamus directing suspension of the order dated 21-01-1997 appointing the second respondent as Receiver in E.P.No.4 of 1997 pending E.A.No.81 of 1997 on the file of the first respondent-District Munsif, Chintalapudi.

It is represented by the learned Counsel for the writ petitioner that the third respondent in the Writ Petition appears to have succeeded in a civil suit bearing O.S.No.178 of 1994 on the file of the first respondent-District Munsif at Chintalapudi, and in order to get that decree executed, he has taken out the execution proceedings in E.P.No.4 of 1997. The third respondent-decree holder had also filed E.A.No.12 of 1997 for appointment of a receiver to take possession of the

EP schedule lands and to auction the usufruct and also the leasehold rights of the same for the purpose of recovering the EP amounts. In that process, the third respondent-decree holder seems to have described the lands situated in R.S.Nos.593/1 and 594/1 to an extent of Ac.3-28 cents, which originally belong to the writ petitioner, who is a third party to the civil suit bearing O.S.No.178 of 1994, out of which the execution proceedings being E.P.No.4 of 1997 were being initiated. Considering the said application, on

21-01-1997, the first respondent-District Munsif appointed the second respondent as Receiver. At that stage, the writ petitioner appears to have taken out an application bearing E.A.No.81 of 1997 in E.P.No.4 of 1997 seeking leave to file a suit against the Receiver. On the pretext that while E.A.No.81 of 1997 has been kept pending, and without deciding the said application, the other execution proceedings were being proceeded with, the writ petitioner has approached this Court.

The grievance of the writ petitioner is that he is not the judgment debtor in the civil suit bearing O.S.No.178 of 1994, and consequently, he has got nothing to do with the execution proceedings taken out for securing the execution of the decree passed in the aforesaid civil suit, but, however, his properties have been included in the EP schedule and got attached.

After hearing the learned Counsel on either side and also on perusal of the entire material available on record, I am of the opinion that the learned District Munsif, Chintalapudi, ought to have disposed of EA.No.81 of 1997 filed by the writ petitioner herein on its own merits, before proceeding with E.P.No.4 of 1997.

Therefore, it is directed that E.A.No.81 of 1997 pending on the file of the first respondent-District Munsif, Chintalapudi, West Godavari District, may be decided as expeditiously as is possible, at any rate, within a period of six weeks from today.

With the above observation, the Writ Petition is disposed of. There shall be no order as to costs.

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(Nooty Ramamohana Rao, J)

16th November, 2006

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